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	First Named Inventor	Harris, David N.
	Art Unit	3622
	Examiner Name	Alvarez, Raquel
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ENCLOSURES   *(Check all that apply)*

☐ Fee Transmittal Form	☐ Drawing(s)	☐ After Allowance communication to (TC)
☐ Fee Attached	☐ Licensing-related Papers	☐ Appeal Communication to Board of Appeals and Interferences
☐ Amendment / Reply	☐ Petition	☒ Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
☐ After Final	☐ Petition to Convert to a Provisional Application	☐ Proprietary Information
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Remarks

Appeal Communication to TC is a Reply Brief (7 pages).

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Henneman & Associates, PLC
Signature	*Larry E Henneman, Jr.*
Printed name	Larry E. Henneman, Jr.
Date	May 23, 2008 Reg. No. 41,063

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I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Signature	*Larry E Henneman, Jr.*		
Typed or printed name	Larry E. Henneman, Jr.	Date	May 23, 2008

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPELLANT: David N. Harris   CONFIRMATION NO.:   2653

SERIAL NO.:   09/760,271   ATTORNEY DOCKET NO. 0013-011P1

FILING DATE: 01/12/2001

TITLE: SYSTEM AND METHOD FOR PRE-VERIFYING COMMERCIAL

                   TRANSACTIONS

EXAMINER: Ms. Raquel Alvarez

ART UNIT: 3622

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REPLY BRIEF

Dear Sir:

This paper responds to the Examiner's Answer of March 26, 2008, the deadline for response being May 26, 2008.

- The status of claims begin on page 2.
- The grounds of rejection begin on page 3.
- Appellant's arguments in response to the Examiner's Answer begin on page 4.

Status of Claims Page

Claims 1-3 and 5-36 are pending. Claim 4 is canceled. Claims 8, 12, 22 and 25-36 were not rejected or addressed in the last office action. However, in section 3 of the Examiner's Answer, the Examiner indicated that there was a typographical error and that claims 1-3 and 5-24 stand rejected. In view of the Examiner's correction, claims 1-3 and 5-24 stand rejected, and claims 25-36 remain not rejected nor addressed in either the office action or the Examiner's Answer. Accordingly, Appellant believes that claims 25-36 must be allowable. Claims 1-3 and 5-24 are being appealed. Assuming that claims 25-36 are allowable, Applicant is not appealing those claims. However, if claims 25-36 stand rejected, then Appellant is appealing those claims also.

Grounds of rejection to be reviewed on appeal

The Examiner rejected claims 1-3 and 5-24 under 35 USC § 102(b) as anticipated by Blonder.

The Examiner in the Examiner's Answer newly rejected claims 8, 12 and 22 under 35 USC § 102(b) as anticipated by Blonder.

The Examiner has not rejected nor addressed claims 25-36 in either the office action or the Examiner's Answer. Accordingly, Appellant requests a statement of their allowability. If claims 25-36 are allowed, then Applicant is not appealing those claims. However, if claims 25-36 stand rejected, then Appellant is appealing those claims also.

Argument

Re Claims 8, 12 and 22:

In section 3 of the Examiner's Answer, the Examiner indicated that claims 8, 12 and 22 were mistakenly not listed as rejected. In section 9, the Examiner summarily rejected claims 1-3 and 5-24 without specific argument or establishing a *prima facie* case against newly rejected claims 8, 12 and 22. Appellant therefore requests a notice of allowance for claims 8, 12 and 22 due to the Examiner's failure to establish a prima facie case of unpatentability.

Re Claims 25-36:

In neither the office action nor the Examiner's Answer, did the Examiner reject claims 25-36. Accordingly, Appellant requests a notice of allowance for claims 25-36 due to the Examiner's failure to establish a *prima facie* case of unpatentability. If rejected, then Appellant requests that they be considered under appeal.

Re Independent Claims 1 and 13 and Thus All Dependent Claims Therefrom:

In section 10, the Examiner maintained her rejection of claims 1-3, 5-7, 9-11, 13-21, 23 and 24 under 35 USC § 102(b) over Blonder. The Examiner added a rejection of claims 8, 12 and 22, each of which depend indirectly from one of the two independent claims, namely, independent claim 1 or independent claim 13. Further, although not rejected, claims 25-36 depend directly or indirectly from independent claim 13. Accordingly, the arguments noted below apply to all the pending claims, namely, to claims 1-3 and 5-36.

In section 10 of the Examiner's Answer, the Examiner specifically discusses record #3 of Figure 3, asserting that "Transactions 1, 2 and 3 of record #3 for merchant codes, MC 1234 and MC 4567 need not be verified by account holder if less than 4 transactions for the particular merchant are performed for a given day." Applicant respectfully submits that the Examiner continues to misrepresent the Blonder reference.

Regarding merchant codes, col. 6, lines 20-24 of Blonder state, "By contrast, the owner of the credit card number associated with the third record wishes to be alerted whenever that card is used at commercial establishments associated with specific merchant codes." Ignoring the fact that record #3 pertains to alerts (Alert flag = YES) and not approvals (Approval flag = NO), Blonder would require approval for every transaction at the specified merchants. In other words, when a specific merchant condition is satisfied, approval would be required. As described in detail in Applicant's appeal brief, Appellant's claims require satisfaction of the condition to cause approval "without account holder verification." Further, the statement in Blonder indicates that, for the merchant code trigger condition of record #3, Blonder ignores the number of transactions, signifying that each of the trigger conditions (e.g., merchant codes and maximum transactions) is independent (logically OR'ed).

Regarding the maximum number of transactions, as noted by the column header, the specification in col. 6 lines 28-49 and the Examiner in her reply, each field 306 of Figure 3 defines the "MAXIMUM # OF TRANSACTIONS PER DAY" after which card owner approval is required. Field 306 of record #3 defines the condition ">4." Thus, satisfaction of the condition (the number of transactions being > 4) causes the Blonder system to require card owner approval. Again, as described in detail in Appellant's appeal brief, Applicant's claims require satisfaction of the condition to cause approval "without account holder verification."

The Examiner states, "If the condition of less than 4 per day for a given merchant is satisfied, no authorization is required by the account holder." However, Applicant respectfully submits that the Examiner's statement misrepresents the Blonder reference in at least two ways. First, the condition in Blonder is ">4," not "<4." And, second, upon satisfaction of the condition, the response in Blonder is to seek card owner approval, not cause pre-verification.

The Examiner further states that the independent claims are not limited to merchant codes alone. We agree. While in our appeal brief we provide an example case specifically with regard to the merchant code embodiment, we are merely highlighting an example significant difference

between a pre-verification condition technique as claimed and an approval-required trigger condition technique of Blonder.

Other examples highlighting the differences between these techniques also exist. For example, Appellant's invention allows a user to specify multiple conditions that will result in the pre-verification of a transaction without requiring actual verification from the user. For example, if a card holder wishes to pre-verify all transactions on a particular date (e.g., Thursday) and all transactions less than $300, then the claimed system and method enable an account holder to achieve this by listing both of those pre-verification conditions. If either pre-verification condition is met for a particular transaction, then that transaction will be pre-verified. However, Blonder cannot specify multiple conditions that will result in pre-verification of a transaction, because Blonder uses approval-required trigger conditions. Even if the trigger conditions are inversely defined, the system of Blonder cannot achieve the desired result. In particular, if Blonder defines the date trigger condition as Friday thru Wednesday, and defines the amount trigger condition as $\geq$ $300, a $400 transaction on Thursday will require user approval, because the transaction meets one of the trigger conditions (i.e., $\geq$ $300). Thus, Blonder's attempt to pre-verify all transactions on Thursday will fail. Similarly, a $250 transaction on Wednesday will require user approval, because the transaction will meet a different one of the trigger conditions (i.e., Friday –Wednesday). Again, the system of Blonder will be ineffective to pre-verify all of the transactions that occur on Thursday and all of the transactions that are less than $300.

More importantly, from a security perspective, Appellant respectfully submits that it is impractical and dangerous to require a card owner to list all conditions requiring approval, with the default condition being automatic approval, as described in Blonder. A failure to list one unauthorized approval-required condition could result in an unintended automatic approval. Alternatively, the claimed system and method enable an account holder to identify pre-verification conditions, with the default being that account holder verification is required. A failure to list a pre-verification condition in Appellant's system or method does not result in a security breach.

While some examples may come to the same result, the technique is different and recited in the claims.

From the Examiner's statement in the last paragraph of section 10, it seems that the Examiner recognizes a significant difference of the system and method as it relates specifically to the merchant code case. Accordingly, Appellant respectfully submits that the Examiner implies that dependent claims 7, 8, 19 and 20 (as well as possibly allowed claims 31 and 32), which recite merchant code limitations, are patentable over Blonder.

In light of the above and the reasons provided in Appellant's Appeal Brief, Appellant respectfully submits that claims 1-3 and 5-36 are patentable over Blonder. Appellant respectfully requests that the Board overrule the rejection of claims 1-3 and 5-36 under 35 USC § 102(b) over Blonder, and that the Board direct the Examiner to issue a notice of allowance of claims 1-3 and 5-36.

If the Examiner or Appeal Board has any questions or suggestions for expediting the prosecution of this application, the Examiner and Board are invited to contact Applicant's attorney at (269) 279-8820.

Respectfully submitted,

Date: 5/23/08

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